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10/564,176	03/31/2006	Gregor Kohlruss	KOHLRUSS ET AL -19 PCT US	7875
25889	7590	07/11/2008	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			GUIDOTTI, LAURA COLE	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,176	Applicant(s) KOHLRUSS ET AL.	
	Examiner Laura C. Guidotti	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “cleaning element has a slightly smaller circumference than the retaining body” (claim 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 5-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, it is unclear to the Examiner as to what is meant by "tube or hose shape". From Figure 1b, which is shown as a cutaway or cross section of the claimed invention, if the cleaning element were such a hose shape or tube shape, then it is unclear to the Examiner from the drawings as to how the cleaning element could be one of those shapes. "Tube" is defined as "A hollow cylinder, especially one that conveys a fluid or functions as a passage" according to *The American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2006 by Houghton Mifflin Company* and "hose" is defined as "A flexible tube for conveying liquids or gases under pressure" also according to *The American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2006 by Houghton Mifflin Company*. The cleaning element (4) does not appear and is not described as being a cylinder or cylindrical. Is the Applicant using a special definition for "tube or hose shape"? "Tube or hose shape" is confusing mischaracterizes the cleaning element. In addition, Claim 1 recites that "the cleaning element has a slightly smaller circumference than the retaining body" which is unclear based on the Figures. Neither the figures nor disclosure illustrate as to how the cleaning element has a smaller circumference than the retaining body, Figures 1 and 1b clearly show that the cleaning element 4 would have a larger radius from axis y-y than the retaining body 3. It appears that the Applicant is trying to define the cleaning

element size before the device is assembled, however the apparatus of Claim 1 is drawn to the fully assembled brush system. This is confusing and unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, 8, and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Steward, US 2,560,008.

Steward discloses the claimed invention including a retaining body (15) held by a retaining handle (6), on which a cleaning element (16) can be fixed in a first functional position (as shown in Figure 3) and is capable of being transferred from the first functional position into at least one second functional position (as a user is capable of shifting or reversing the side facing outwards of 16; or alternatively Column 3 Lines 41-43, 53-55), the cleaning element is capable of being configured to be a tube or hose shape and surrounds the retaining body (in an unassembled state, Figures 2-3), the cleaning element (16) rests against the retaining body (15) with elastic bias and can be wedged in place on the latter by means of the retaining handle (Figures 2-3), and the cleaning element has a slightly smaller circumference than the retaining brush body (in that it is capable of being folded or wrapped upon itself into a smaller circumference, see Figures). Regarding claim 5, the cleaning element is a cleaning plush (16, see Figures). Regarding claim 8, the retaining body (15) has a working surface that is

rectangular when viewed in cross-section having two straight working edges (edges are unlabeled and not shown, the pad is rectangular and would have such edges in a cross-section, Column 3 Lines 26-27). Regarding claim 11, the retaining handle has a Ω -shaped configuration in cross-section, having a center axis (would be a vertical central axis to the position of the device in Figures 2-3), whereby two pressure ridges that lie diametrically opposite one another (both 9) with reference to the center axis (Figures 2-3), are disposed on the retaining handle oriented in opposite directions (Figures 2-3) which run perpendicular to the retaining body (see Figures). Regarding claim 12, an extension projects perpendicular away from the pressure ridges is disposed free ends of the pressure ridges (portions of 10, 11 project perpendicularly away from the pressure ridge, Figure 2), which extension runs parallel to the retaining body and is oriented toward the working edge (see Figures).

4. Claims 1, 7, and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ichikawa et al., JP 2002-143065 (see also computer generated English translation).

Ichikawa et al. disclose the claimed invention including a retaining body (12, 16) held by a retaining handle (14, 20), on which a cleaning element (18) can be fixed in a first functional position (as shown in the Figures) and is capable of being transferred from the first functional position into at least one second functional position (as a user is capable of shifting or reversing the side facing outwards of 18 or fully removing the sheet), the cleaning element is capable of being configured to be a tube or hose shape and surrounds the retaining body (in an unassembled state, see Figures), the cleaning element rests against the retaining body with elastic bias and can be wedged in place

on the latter by means of the retaining handle (English translation paragraphs 23-24), the cleaning element has a slightly smaller circumference than the retaining brush body (in that it is capable of being folded or wrapped upon itself into a smaller circumference, see Figures). Regarding claim 7, the retaining body consists of a stiff elastic foam material (see English translation, paragraph 20). Regarding claim 9, the retaining body has a working surface that is triangular (16; see Figure 1b or Figures 5a, 5c-5e). Regarding claim 10, the retaining body also has a working surface that is round when viewed in cross section with a round working edge (as it is rounded in Figure 5b at the bottom).

5. Claims 1, 5-6, and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kersh, US 2,516,396.

Kersh discloses the claimed invention including a retaining body (12) held by a retaining handle (10), on which a cleaning element (32) can be fixed in a first functional position (as shown in Figures 2-3) and is capable of being transferred from the first functional position into at least one second functional position (as a user is capable of shifting or reversing the side facing outwards of 32; or alternatively 32 can be removed), the cleaning element is capable of being configured to be a tube or hose shape and surrounds the retaining body (in an unassembled state, Figures 2-3), the cleaning element rests against the retaining body with elastic bias and can be wedged in place on the latter by means of the retaining handle (Figures 2-3; Column 3 Lines 47-57), the cleaning element has a slightly smaller circumference than the retaining brush body (in that it is capable of being folded or wrapped upon itself into a smaller circumference,

see Figures). Regarding claim 5, the cleaning element is a cleaning plush (32, see Figures). Regarding claim 6, the retaining body has lateral depressions (see Figures 2-3) into which the elastically deformably retaining handle engages with a non-positive and positive lock and in this connection wedges the cleaning element in between itself and the retaining body (Column 3 Lines 3-39). Regarding claim 10, the retaining body also has a working surface that is round when viewed in cross section with a round working edge (see Figures). Regarding claim 11, the retaining handle has a Ω -shaped configuration in cross-section, having a center axis (would be a vertical central axis to the position of the device in Figure 2), whereby two pressure ridges that lie diametrically opposite one another (20 and 20) with reference to the center axis (Figure 2), are disposed on the retaining handle oriented in opposite directions (Figure 2) which run perpendicular to the retaining body (see Figures).

Response to Arguments

6. Applicant's arguments filed 10 April 2008 have been fully considered but they are not persuasive.

As stated above, the Examiner still finds the language "tube or hose shape" and "the cleaning element having a slightly smaller circumference than the retaining body" somewhat confusing and contradictory of the drawings and disclosure. "Tube" is defined as "A hollow cylinder, especially one that conveys a fluid or functions as a passage" according to *The American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2006 by Houghton Mifflin Company* and "hose" is defined as "A flexible tube for conveying liquids or gases under pressure" also according to *The*

American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2006 by Houghton Mifflin Company. The cleaning element (4) does not appear and is not described as being a cylinder or cylindrical. Is the cleaning element a continuous band of cleaning material? None of the figures or disclosure illustrate as to how the cleaning element has a smaller circumference than the retaining body, Figures 1 and 1b clearly show that the cleaning element 4 would have a larger radius from axis y-y than the retaining body 3. It appears that the Applicant is trying to define the cleaning element size before the device is assembled, however the apparatus of Claim 1 is drawn to the fully assembled brush system. This is confusing and unclear.

As best understood, the prior art cited and discussed above does disclose the brush system as claimed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura C Guidotti/
Primary Examiner, Art Unit 3723

lcg